



Patents

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the reissue application of :

Don A. Perry and H. Earl Wright	:	Examiner: R. Shay
Serial No.: 07/227/253	:	Group Art Unit 335
Filed: April 13, 1989	:	
For: TOUCH ENHANCING PAD	:	

AFFIDAVIT OF THADDEUS C. ICHNIOWSKI RE  
BECK PATENT UNDER 37 C.F.R. § 1.132

STATE OF ILLINOIS, )  
 COUNTY OF McLEAN, ) SS:

I, THADDEUS C. ICHNIOWSKI, being duly sworn, depose and say  
 as follows:

1. I was awarded a Bachelor of Science degree in Chemistry by Washington College, Chestertown, Maryland, in 1955; I was awarded a Master of Science degree in Chemistry by Purdue University, Lafayette, Indiana, in 1959; and I was awarded a Ph.D. degree in Inorganic Chemistry by Purdue University, Lafayette, Indiana, in 1961 and my thesis topic was based on new Inorganic Polymers.

2. From 1961 to date, I have been a professor of chemistry at Illinois State University, Normal, Illinois. My work has involved teaching polymer chemistry and completing research projects in polymer chemistry.

3. From 1964 to 1974, I was an abstracter for Chemical Abstract Services where my assignments included abstracting U.S., French and German patents.

4. From May, 1980 to August, 1981, I was on leave from Illinois State University and I served as a visiting professor of polymer chemistry at Dow Chemical Company, Midland, Michigan. I attended several polymer courses offered at Midland Macromolecular Institute as an updating in the field. While at Dow, I became

Institute as an updating in the field. While at Dow, I became familiar with the requirements for filing U.S. patent applications and with U.S. patent laws.

5. My work in chemistry and chemical education has resulted in my being recognized nationally and being listed in AMERICAN MEN AND WOMEN IN SCIENCE.

6. I have reviewed Perry and Wright U.S. Reissue Patent Application No. 07,337,253, filed April 13, 1989 ("Perry and Wright") and I have reviewed Paschal, U.S. Patent No. 2,694,396, issued November 16, 1954, based on Application Serial No. 227,656, filed May 22, 1951 ("Paschal"). In particular, I have considered the reference in Paschal to a massaging device "comprised of a sheet formed of flexible plastic material or any other suitable flexible material which is impervious to liquid and a second sheet of the same or like material fused or seamed together along the line near the edges thereof and having sealed in the interior thereof a lubricant."

7. In my opinion, the quoted language from Paschal does not teach or suggest the properties specified in Perry and Wright as being necessary for the enclosure material of the touch-enhancing device for the following reasons:

(a) Paschal does not provide any dimensional or mechanical specifications that would identify the nature of the "sheets", nor does it provide any description of the material or class of materials other than "flexible plastic". In my opinion, a "sheet" would be an object with some rigidity which would or could maintain its original shape. Such a material might indeed be "flexible". For example, a polystyrene coffee cup is "flexible", but is certainly not flexible enough to prepare a touch-enhancing device as taught by Perry and Wright; and

properties that are required for a material to be effective for use according to the Paschal invention. The term "flexible" is very vague and implies a large range of behaviors. In my opinion, the material needs to be specified in terms of either a commercial material or by the use of dimensional and/or mechanical properties.

9. In my opinion, the materials commonly known as "plastics" which were available on May 22, 1951, the filing date of Paschal, did not possess the properties specified in Perry and Wright as being necessary for the enclosure material of the touch-enhancing device for the following reasons:

(a) High density/low pressure polyethylene and polypropylene were not available on May 22, 1951. Their development came only after the introduction of Ziegler type catalysts, which occurred in about 1954. Therefore, these materials were not available in a form suitable for the manufacture of film or thin sheets until some time later in the 1950's;

(b) Cellulosics were the primary materials used in the packaging industry until the early 1960's when they were replaced by a variety of other synthetic materials which had become available. This suggests that the appropriate films and/or thin sheetings were not available until the late 1950's or early 1960's;

(c) When studying some of the early texts and other references on polymer/plastic technology, the primary references tabulated in bibliographies cite literature for the early 1960's. Very little literature earlier than 1960 is cited. For example, the patents cited in M. Sittig, Plastic Films From Petroleum Raw Materials, Noyes Development Corp., Park Ridge, New Jersey, 1967, page 109 to 143, do not include any patent earlier than 1960. This is confirmed by a search of chemical abstracts relating to the date

earliest citation found was dated 1964; and

(d) Polyvinyl chloride ("PVC") was available in sheets on May 22, 1951, but such "sheets" were relatively thick, relatively unflexible, and designed for use in products such as tanks and swimming pools, and were not thin polymeric flexible plastic sheets, as disclosed and claimed in the subject Perry and Wright reissue application.

Thaddeus C. Ichniowski  
THADDEUS C. ICHNIOWSKI

Subscribed and sworn to before me this 27<sup>th</sup> day of February, 1990.

Teresa J. Lange  
Notary Public

My commission expires: 2-10-92

(SEAL)

